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WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director Laura D. Rose, Deputy Director

TO:

REPRESENTATIVE NICK MILROY

REPRESENTATIVE CHRIS DANOU REPRESENTATIVE FRED CLARK

REPRESENTATIVE KATRINA SHANKLAND

REPRESENTATIVE DIANNE HESSELBEIN

REPRESENTATIVE GARY HEBL

FROM: David L. Lovell, Senior Analyst/

RE:

Drafting Instructions for Creation of a Sporting Heritage Grant Program

DATE: September 13, 2013

The following is a summary of drafting instructions discussed in the office of Representative Milroy on Wednesday, September 11, 2013, for legislation to create a sporting heritage grant program. The program would replace the program of the same name under s. 29.605, Stats., created by 2013 Wisconsin Act 20, the 2013-15 Biennial Budget Act.

Note that the drafting instructions summarized here are preliminary. Also, the outline specifies some details not discussed at the September 11 meeting. Notes throughout the outline identify some of the decisions necessary to finalize these drafting instructions as well as some of the details not previously discussed that are included in the outline.

CREATION AND PURPOSE

Direct the Department of Natural Resources (DNR) to establish a sporting heritage grant program. Specify that the purposes of the program are:

- To provide education to persons who engage in hunting, fishing, and trapping.
- To establish and operate programs to recruit persons to engage in these activities.
- To encourage continued engagement in these activities.

NOTE: This reproduces language from current law. Beyond stating the purpose of the program, legislation could specify individual activities that grant recipients must undertake. In this case, this could involve separate lists of activities related to hunting, fishing, and trapping.

GRANT ADMINISTRATION

Specify the following with regard to the administration of grants:

- The DNR shall award grants on a competitive basis. (Note that Robin Kite, the Legislative Reference Bureau attorney who will draft this proposal, advises that the program, as designed, is inherently competitive any eligible applicant may apply so, unless you have a more specific result in mind, her draft will not include a statement to this effect.)
- Except as provided below, a grant is for a term of two years, beginning on January 1 of an even-numbered year.
- A grant may not exceed \$100,000. (Note that, with two-year grants, this is \$50,000 per year.)
 - Not more than 50% of a grant may be expended for salaries and fringe benefits. (Note: It appears likely that salaries and fringe benefits may be the bulk of the cost of operating a sporting heritage program. If that is the case, you may want to reconsider this condition.)
 - Beginning with grants awarded for 2016, a grant recipient must match the grantwith other funds not less than 25% of the eligible project amount.

NOTE: Statutes creating grant programs commonly include additional provisions, which you may want to include in these drafting instructions. Some such provisions are largely administrative, while others are designed to ensure that the program, as implemented, meets the Legislature's intent. The following are some options for consideration:

- **Prohibited uses.** In addition to specifying what a grant is to be used for, legislation could specify what it may **not** be used for. As an example, it appears that the possibility of the sporting heritage grants under current law being used for establishing or operating a shooting range is controversial; if you do not want that use of grants, legislation could prohibit it.
- Reporting requirements. You may want to require grant recipients to submit a status report to the DNR midway through the grant period (July 1, 2015, and then January 1 of each odd-numbered year), a final report within a specified number of days of the end of the grant period, or both. The purposes of a

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status report would be to allow the DNR to redirect grant activities, if needed, and to evaluate performance in advance of considering applications for the next round of grants. Legislation could specify the information in a report or could direct the DNR to specify this. Information frequently included in such reports includes:

- o A description of activities funded by the grant.
- o Measurable progress toward accomplishment of specified goals.
- o An accounting of how the grant funds were spent; for larger grants, this could include an independent audit.
- **Applications: content and review process.** Some grant statutes specify various aspects of the application process, such as the required content of applications or the process or timeline by which the administering agency must review applications. Alternatively, this can be left to the agency to determine.
- Applications: criteria for grant approval. In addition to specifying administrative aspects of the grant application process, statutes often specify criteria the administering agency must consider in determining whether to approve an application.

ELIGIBILITY FOR GRANTS

The group did not settle on eligibility criteria for grant recipients at its September 11 meeting. Grant programs vary greatly in how eligibility is described. See the attached memorandum from Daryl Hinz, Program Supervisor, Legislative Fiscal Bureau, which describes a number of natural resource-related grant programs, including eligibility requirements. (This memorandum, prepared for Representative Nick Milroy, is provided to you with the permission of Representative Milroy's office.)

Drawing from the attached memorandum and from ideas offered at the September 11 meeting, the following are proposed eligibility requirements for sporting heritage grant recipients. You should review these carefully, to ensure they accomplish your intent.

Specify that a grant applicant shall:

- Be a non-stock corporation based in this state.
- Meet the requirements of a non-profit organization under s. 501 (c) (3) of the federal
 Internal Revenue Code.





• Have a demonstrated capacity to deliver educational programming related to hunting, fishing, or trapping.

PROGRAM IMPLEMENTATION

Specify the following with regard to program implementation:

- In fiscal year (FY) 2014-15, the DNR shall award one or more grants from the appropriation under s. 20.370 (1) (ma), Stats. Grants under this provision shall:
 - o Have a term of one year, beginning on January 1, 2015.
 - o Total not more than \$200,000.
- Beginning in FY 2015-16, the DNR shall award one or more grants from the appropriation under a new budget line. Grants under this provision shall have a term of two years, beginning on January 1 of each even-numbered year.

NOTE: Current s. 29.605 directs the DNR to award a grant of \$200,000 GPR in FY 2013-14 from the general operations appropriation-state funds for the DNR's land and forestry programs. The grant was not awarded, so it would appear that funds that were available for that grant remain available.

Current s. 29.605 also directs the DNR to award a grant of \$300,000 in FY 2014-15, without specifying the funding source.

The program implementation outlined above sets up a grant cycle with new grants being awarded for the two-year period starting on January 1 of each even-numbered year; that is, beginning in the first year that begins after passage of each biennial budget. It does not include a grant in the current fiscal year, but includes a one-year grant in the next fiscal year, before beginning the two-year grant cycle on January 1, 2016. For the one-year grant beginning on January 1, 2015, this proposal uses the funding source that current law designated for the FY 2013-14 grant. You may want to specify a funding source for grants beginning on January 1, 2016.

 Authorize the DNR to use the emergency rule-making procedures to promulgate rules for grants made for January 1, 2015, and direct the DNR to promulgate final rules for grants made beginning January 1, 2016.

If you would like to discuss further the options for draft legislation to create a sporting heritage grant program, please contact me at the Legislative Council staff offices.

DLL:jal

Attachment

Kite, Robin

From:

Hinz, Daryl

Sent:

Wednesday, September 18, 2013 3:28 PM

To:

Kite, Robin; Lovell, David

Cc:

Probst, Erin

Subject:

RE: Sporting Heritage Grant II

Thanks for the input Robin.

On (a) 1, the idea is to make it clear that each biennium there must be a 'competitive' grant process. That is, there was uncertainty under Act 20 whether once awarded, the original group could continue to get the grant automatically in future biennia (i.e. in "perpetuity"). In practice DNR seems to do this at some level for other designated grants, but I believe the group wanted greater assurance. Is there a better way to phrase this? I think as long as DNR publicizes the biennial availability, solicits applications, and uses a fair and transparent screening/award process the criteria is met.

On (a) "2." that makes sense.

On the appropriations, current law is silent on where the funds will come from (beyond the GPR approp in FY14) and I don't think anybody has specific ideas on where else it would come from. The idea is to allow or encourage (without directing, in possible conflict with federal law) other sources to be used as appropriate.

On the 50% limit, that was something the group (generally) wanted. You raise a valid point that received some discussion, but I think there would be costs such as training program materials and equipment. I believe some were concerned the past applicant appeared to be planning to spend virtually the entire amount on staff. This topic may come up again though. Daryl

From: Kite, Robin

Sent: Wednesday, September 18, 2013 2:51 PM

To: Hinz, Daryl; Lovell, David

Cc: Probst, Erin

Subject: RE: Sporting Heritage Grant II

Daryl and David:

Here are my thoughts on Daryl's memo:

29.605(1)(a)

- (a) The department shall provide one or more grants on a competitive basis during each fiscal biennium to nonprofit organizations organized in Wisconsin under 501 (c) (3) of the IRC to provide education
 - 1. I do not think that this language should refer to grants awarded on a competitive basis unless it is clear how the organization will "compete". It seems to me that the eligibility requirements for the grant are sufficiently broad so that it is likely that more than one organization will apply for the grant. This makes the grant competitive. If there is some other basis for "competition", then I think it would be better to include that basis in the draft. Also, what happens if there are not enough applicants to award all the money to? Since the language requires DNR to award a certain amount of money, it may turn out that the awards are not very "competitive". That is, it might turn out that everyone that applies for a grant will get a grant.

2. With regard to the status of the organization – I recommend using language similar to s. 23.0955 (2) (a) and 23.056 (1). "A nonstock, nonprofit organization that is described under section 501 (c) (3) of the internal revenue code and organized in this state".

29.605(1)(b)

- (b) During fiscal biennium 2013-15, the department shall provide grants under par. (a) in the amount of **at least \$200,000**. The department shall provide \$200,000 of the grant in fiscal year 2014-15 from the appropriation under s. 20.370 (1) (ma). [Applications shall be submitted by August 1, 2014 and the department shall award grants for calendar year 2015?]
 - 1. This provision requires DNR to award at least \$200,000. Should there be an upper limit?
 - 2. Do you want to specify where the balance of the funding will come from if DNR awards more than \$200,000? Is it clear that there is another appropriation that would allow expenditure of funds for this purpose?

29.605(1)(c)

- (c) During fiscal biennium 2015-17, and during each fiscal biennium thereafter, the department shall provide grants under par. (a) in a total amount of at least \$300,000 [from appropriation (1)(ma) and such other funds as the department may have or make available?]. [Applications shall be submitted by August 1 of 2015 and each following odd number year and the department shall award grants for the two-year period beginning at the start of the following calendar year?]
 - 1. Again, should there be an upper limit?
 - 2. If you want to use the funds available language here, I think it should also be included in par. (b). It would be even better to specify the relevant appropriations to make sure that the language of the appropriations allow the use of funds for this purpose.
- (3) Not more than 50% of any grant may be used to support the costs of salary or fringe benefits. No grant to a single organization may exceed \$100,000 per biennium.

An organization that is a grant recipient must provide training, education, mentoring, etc. Given these requirements, it would seem that the bulk of the costs to the organization would be for personnel. What other significant costs would the organization incur that would require expenditure of 50% of the grant amount? That is, is it reasonable to limit the amount of salary and fringe benefits to only 50% of the grant?

Give me a call if you want to discuss any of this.

Robin

From: Hinz, Daryl

Sent: Wednesday, September 18, 2013 12:07 PM

To: Lovell, David; Kite, Robin

Cc: Probst, Erin

Subject: Sporting Heritage Grant II

David & Robin, attached is a document I was putting together as I thought about what may help the group focus on the decisions they need to make tomorrow. See what you think. Any questions or comments I will probably be over at Jt Finance most of the afternoon, but if you call the general # (266-3847) I think they can transfer you (or give you the

direct #). Based on David's memo, potential new or changed criteria are in bold, italics is generally questions to be answered (if neither, is generally borrowed from current law). Thanks.

<< File: Sporting Heritage II Sept '13.docx >>

Daryl Hinz Program Supervisor Legislative Fiscal Bureau 608-266-3847 9-17-13 Discussion Draft - Sporting Heritage Grant Revisions

Repeal and recreate §29.605 as follows:

29.605(1)(a)

(a) The department shall provide one or more grants on a competitive basis during each fiscal biennium to nonprofit organizations organized in Wisconsin under 501 (c) (3) of the IRC to provide education to persons who engage in hunting, fishing, and trapping, to establish and operate programs to recruit persons to engage in these activities, and to encourage continued engagement in these activities. [The department shall publicize the opportunity for grant applications at least 90 days before applications are due.]

29.605(1)(b)

(b) During fiscal biennium 2013-15, the department shall provide grants under par. (a) in the amount of at least \$200,000. The department shall provide \$200,000 of the grant in fiscal year 2014-15 from the appropriation under s. 20.370 (1) (ma). [Applications shall be submitted by August 1, 2014 and the department shall award grants for calendar year 2015?]

29.605(1)(c)

- (c) During fiscal biennium 2015-17, and during each fiscal biennium thereafter, the department shall provide grants under par. (a) in a total amount of at least \$300,000 [from appropriation (1)(ma) and such other funds as the department may have or make available?]. [Applications shall be submitted by August 1 of 2015 and each following odd number year and the department shall award grants for the two-year period beginning at the start of the following calendar year?]
- (d) Beginning in the 2015-17 biennium the state grant may not exceed 75% of eligible project costs [minimum recipient match of 25% of agreed project].
- (2) A nonprofit organization that receives a grant under sub. (1) shall use the grant to provide programs and education designed to preserve and protect this state's hunting, fishing and trapping [NOT and shooting] traditions.
- ?? [In addition, an applicant shall be given greater consideration if the organization can demonstrate that it:
- (b) teaches courses on firearm safety and training, shooting skills, and outdoor education and uses a recognized curriculum to teach those courses.
- (d) is able to provide mentors for new hunters by recruiting volunteers and maintaining a database of volunteers.

- (f) is able to ensure the maintenance or improvement of this state's position among all of the states in the areas of outdoor sporting heritage and recruitment by providing sporting education and programming to persons statewide or regionally.
- (g) will provide matching funds in excess of 25% of eligible project costs.]??
- (3) Not more than 50% of any grant may be used to support the costs of salary or fringe benefits. No grant to a single organization may exceed \$100,000 per biennium. [Grant recipients shall submit reports detailing grant expenditures, including expenditure of matching funds, and accomplishments as required by DNR, but not less than once per grant award.]

Nonstatutory provisons:

Under chapter 20.370 (1) (ma) decrease the amount appropriated in 2013-14 by \$200,000 GPR and increase the amount appropriated in **2014-15** by the same amount [on a one-time basis, or ongoing??].

Repeal 2013 Act 20 §9132 (4d). [2013-15 award timelines & advisory committee].

Pep. Milroy - 225 NW-W/LC, LFB & other legislature Staff Article VIII, section 2 - "no morey shall be paid out of the treasury except in pursuance of an appropriation by law
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wake clear that people must apply each time - grants must be awarded in brenzium
"DNR shall accept applications" - or something like this
no person may receive more than \$100,000 in biennium
report at least once a year detail expenditures of activities - also language re: goals (svodel after other program grant program (anguage)
Must be a 501(C)(3) - don't refer to (c)(4)
GPR junding - one time - don't include in base

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# State of Misconsin 2013 - 2014 LEGISLATURE



## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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AN ACT. : relating to: establishing a sporting heritage grant program, providing an exemption from emergency rule procedures, granting rule-making authority, and making an appropriation.

### ${\bf Analysis~by~the~Legislative~Reference~Bureau}$

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

## The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.370 (1) (ma) of the statutes, as affected by 2013 Wisconsin Act

20, section 280b, is amended to read:

20.370 (1) (ma) General program operations — state funds. From the general

fund, the amounts in the schedule for general program operations under ch. 23 and ss. 30.40 to 30.49 and for the trapper education program under s. 29.597.

NOTE: NOTE: Par. (ma) is shown as repealed and recreated of f. 7-1-14 by 2013 Wis. Act 20. Prior to 7-1-14 it reads: NOTE:

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trapping.

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(ma) General program operations — state funds. From the general fund, the amounts in the schedule 1 2 for general program operations under ch. 23 and ss. 30.40 to 30.49, for the trapper education program 3 4 under s. 29.597, and for the grant amount grants awarded under s. 29.605 (1) (b) that is provided in 5 6 History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22m to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 27, 35; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; 2013 a. 1; 2013 a. 20 ss. 214, 217, 218, 240, 220, 221, 276 to 289j; s. 13.92 (1) (bm) 2. SECTION 2. 20.370 (1) (ma) of the statutes, as affected by 2013 Wisconsin Acts 20. section 280c, and .... (this act), is repealed and recreated to read: 9 20.370 (1) (ma) General program operations — state funds. From the general 10 11 fund, the amounts in the schedule for general program operations under ch. 23 and ss. 30.40 to 30.49, for the trapper education program under s. 29.597, and for the grants awarded under s. 12 -, as created by 2013 Wisconsin Act 20, 29.605 (4). 13 **SECTION 3.** 29.605 of the statutes is repealed and recreated to read: 14 29.605 Sporting heritage grant program. (1) In this section, "nonprofit 15 organization" means an organization that is organized in this state, that is described 16 in section 501 (c) (3) of the Internal Revenue Code, and that is exempt from federal 17 income tax under section 501 (a) of the Internal Revenue Code. 18 (2) The department shall promulgate rules to establish a program to award 19 grants to nonprofit organizations to do any of the following: 20 Educate and train (for) persons who engage in hunting, fishing, and 22 trapping. (b) Conduct programs to recruit persons to engage in hunting, fishing, and 23

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- (c) Conduct programs to encourage continued engagement in hunting, fishing, and trapping.
- (3) A nonprofit organization is eligible to receive a grant under this section if it submits an application to the department, in the form required by the department, that demonstrates to the satisfaction of the department that it is able to perform the activity for which the grant application is made.
- (4) (a) During each fiscal biennium, the department shall award grants under this section from the appropriation under s. 20.370 (1) (ma). The department shall award grants upon consultation with the sporting heritage council. The total amount that the department may award in grants in each biennium may not exceed \$200,000.
- (b) A nonprofit organization may not receive an amount under this subsection that totals more than \$100,000 in any biennium.
- (c) Beginning with grants awarded in the 2015-17 biennium, a nonprofit organization may not receive a grant under this section unless the nonprofit organization contributes funds equal to at least 25 percent of the cost of the activity for which the grant is awarded.
- (5) The department shall establish a process under this section under which it accepts applications from eligible organizations each biennium.
- (6) A nonprofit organization that receives a grant under this subsection shall, on July 1 following the fiscal year for which the grant is awarded, prepare a report detailing the activities for which a grant under this subsection is expended. Copies of the report shall be submitted to the department and to the appropriate standing committees of the legislature, as determined by the speaker of the assembly or the president of the senate.

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SECTION 4.	2013 Wisconsin Act 20	, section 9132 (4d) is	repealed.

#### SECTION 5. Nonstatutory provisions.

- (1) Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information under section 16.42 of the statutes for purposes of the 2015–17 biennial budget bill, the department of natural resources shall submit information concerning the appropriation under section 20.370 (1) (ma) of the statutes as though by this act, the increase in the dollar amount of that appropriation under Section 4 (1) (b) of this act had not been made.
- (2) (a) The department of natural resources shall submit in proposed form the rules required under section 29.605 (2) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 10th month beginning after the effective date of this paragraph.
- (b) Using the procedure under section 227.24 of the statutes, the department of natural resources may promulgate rules required under section 29.605 (2) of the statutes, as created by this act. for the period before the effective date of the rules submitted under paragraph (a), but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of natural resources is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

#### SECTION 6. Fiscal changes.

(1) (a) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (1) (ma)

1	of the statutes, as affected by the acts of 2015, the dollar amount is decreased by
2	\$200,000 for the first fiscal year of the fiscal biennium in which this subsection takes
3	effect for the purpose for which the appropriation is made.
4	(b) In the schedule under section 20.005 (3) of the statutes for the appropriation
5	to the department of natural resources under section 20.370(1)(ma) of the statutes,
6	as affected by the acts of 2013, the dollar amount is increased by \$200,000 for the
7	second fiscal year of the fiscal biennium in which this subsection takes effect for the
8	purpose of increasing funding for sporting heritage grants.
9	SECTION 7. Effective dates. This act takes effect on the day after publication,
10	except as follows:
11	(1) The repeal and recreation of section 20.370 (1) (ma) of the statutes takes
12	effect on July 1, 2014.
13	(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3191/dn
RNK:...:...

Please note that one of the items requested in this draft was for the Department of Natural Resources (DNR) to recommend how the grant program created in this draft is to be funded in future fiscal years. I did not draft a specific provision for this item because, as a practical matter, DNR will have to determine how to fund the program each time that it makes it biennial budget request under s. 16.42, stats.

This draft is in preliminary form. If it meets with your intent, please let me know and I will redraft it in introducible form. If you have questions, please feel free to contact me.

Robin N. Kite Senior Legislative Attorney Phone: (608) 266–7291

E-mail: robin.kite@legis.wisconsin.gov

# DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-3191/P1dn RNK:eev:ev

September 24, 2013

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This draft is in preliminary form. If it meets your intent, please let me know and I will redraft it in introducible form. If you have questions, please feel free to contact me.

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